PETITION FOR SPECIAL HEARING SW/S Yorkway, 221.42' SE of Leeway (2526 Yorkway) 12th Election District

\* DEPUTY ZONING COMMISSIONER 7th Election District \* OF BALTIMORE COUNTY

. . . . . . . . . . .

Roger S. Burnett, et ux \* Case No. 88-530-SPH Petitioners

dyn(n)

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a special hearing to approve the nonconforming use of the subject property as a five (5) unit apartment building, as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by Mr. Burnett, appeared, testified and were represented by John O. Hennegan, Esquire. Also appearing on behalf of the Petition were: John O'Bara, Evelyn Comer, and J. Richard O'Donnell. There were no Protestants.

Testimony indicated that the subject property, known as 2526 Yorkway, is zoned D.R. 10.5, and is improved with an apartment building, which, at the present time, contains six apartments. Mr. O'Bara testified that he purchased the subject property from a Mr. Huskey in 1949. He further testified that from the information he learned at that time, which is supported by Petitioner's Exhibit 2, it is his understanding that the apartment building was built in approximately 1943. At the time of Mr. O'Bara's purchase, four apartments existed; two on the first floor, known as A and B, and two on the second floor, known as C and D. Mr. O'Bara testified that in 1953 he completed a fifth apartment in half of the basement area. Mr. O'Bara described each apartment as containing its own kitchen, living room, bedroom and bathroom. He further testified that from the time he owned the building until 1972, when he sold the property

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CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

District 12Th		Date of Po	sting 6/25/88	
Posted for: Special Petitioner: Roger	Heor 1 2 9			·
Petitioner: 1020X	York Way	271,42° SI	Elter Woy,	
Petitioner: A PAY SU/S Location of property: SW/S	Yorkway			
Location of Signe: FICITY ON POPERTY #	BT, ton	35	J-Y. YVONWAY	/·
Remarks:				
Posted by Signature	ly	. Date of return:	7/1/8	
W. Jun of Cl /				

"DUPLICATE" CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson. Baltimore County, Md., appearing on - Chene 16, 19.88

THE JEFFERSONIAN.

5. Zehe Orlan Publisher

33.75

NOTICE OF HEARING

The Zoning Commissioner of Bal-timore County, by authority of the Zoning Act and Regulations of Balti-more County will hold a public theorem on the property identified

hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W.

Chesapeake Avenue in Towson

Petition for Special Hearing Case number: 88-530-SPH SWS Yorkway, 221.42

SE of Leeway (2526 Yorkway) 12th Election District 7th Councilmanic District

Petitioner(s):

Roger S. Burnett, et ux

Hearing Date: Tuesday, July 12, 1988 at 9:00 a.m.

Special Hearing: A don-morning use for a five (5) unit

apartment building
In the event that this Petition is

peal period. The ning Commassioner will, however, entertain any request for a stay of the issuance of good cause shown. Such request must be in writing and received in

this office by the date of the hearir set above or presented at the hea

J. ROBERT HAINE

to Ms. Evelyn Comer, all apartments were continuously and without interruption occupied except for brief periods during a change in tenants.

Ms. Comer testified that she and her husband purchased the subject property in March, 1972 from Mr. O'Bara. She indicated that at the time of their purchase, the building contained five apartments as described by Mr. O'Bara. Testimony further indicated that some time after the purchase of the property by the Comers in 1972 and prior to their selling the property on December 30, 1970, a sixth apartment was added to the basement area. Ms. Comer testified that the five apartments in question were continuously occupied without interruption during her ownership except for brief periods during a change in tenants. Ms. Comer further testified that she frequented the subject property on approximately a weekly basis until she sold it to Mr. J. Richard O'Donnell.

Mr. O'Donnell testified that he owned the subject property from December of 1976 through October 1980 at which time he sold the property to Mr. & Mrs. Burnett, the Petitioners. He further testified that at the time he purchased the building until the time he sold the property, there were six apartments in the building. He indicated that he managed the apartments himself and that the apartments were continuously and without interruption occupied except for brief periods during a change in tenants.

Mr. Burnett testified that he purchased the subject property in October 1980 from Mr. O'Donnell. He indicated that at the time of his purchase, there were six apartments. He further testified that upon receiving notification from the Zoning Enforcement Office of the need to establish the nonconforming use of the subject property, he made the determination to discontinue use of the sixth apartment, known as apartment F. since the sixth apartment did not exist prior to 1955, . He testified he

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 88-530-SPH The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve A nonconforming use for a five (5) unit apartment building, consisting of one (1) basement apartment with two (2) suites on the first floor and two (2) suites on the second floor, all built Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Patition

# 370

•	which is the subject of	this retition.
Contract Purchaser:	Legal Owner(s):	MAP SE.
(Type or Print Name)	Roger S. Burnett (Type or Print Name)	t. D 12
Signature	Signature Signature	DATE 11-16
Address	Linda E. Burnett (Type or Print Name)	1000 B.C
City and State	Flinda E. De Signature	5-12,340
Attorney for Petitioner:		E 127,260
John Ø. Hennegan (Type or Print Name)	2004 Carrs Mill Roa Address	d 388-6813 Phone No.
Signature	Fallston, Maryland City and State	21047
809 Eastern Boulevard Address	Name, address and phone number tract purchaser or representative	r of legal owner, con-
Essex, Maryland 21221 City and State	Contact Attorney	
Attorney's Telephone No.: 686-8274		
•	Address	Phone No.
MORE COUNTY, MARYLAND	ne subject matter of this petition y, in two newspapers of general ci and that the public hearing be had the County Office Building in T	be advertised, as reulation through- before the Zoning owson, Baltimore
LLANEOUS CASH RECEIPT	50470, 1958, a	at 9 o'clock
4-5-88 ACCOUNT R-01-11	sono lost of	ninea
D AMOUNT \$ 100. C	ommissioner of I	Baltimore County.

B frame toopera care

removed the refrigerator and stove from this apartment and that this apartment is no longer occupied. Mr. Burnett testified that since his purchase in 1980 until the present, the five apartments in question, known as Apartments A through E, have been occupied continuously and without interrup-

Testimony indicated that the subject property was zoned "D" Residence Zone which permitted as of right an apartment building under the 1945 zoning regulations. Counsel argued that since all five apartments were in existence prior to the 1955 regulations taking effective, said use should be permitted to continue as a nonconforming use.

The Petitioners seek relief from Section 104.1, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.).

The use of the subject property as four apartments predates the establishment of the first zoning regulations in 1945, and therefore, are clearly nunconforming. In addition, testimony indicated that the fifth apartment, which was added in 1953, was permitted under the 1945 regulations. The uncontraverted testimony indicated that the use of the subject property for five apartments has been continuous and without interruption since approximately 1953 to the present time, with four existing prior to

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested in the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for U Li 37 Baltimore County this Br day of July 1988 that the nonconforming use of the subject property as a five unit apartment building, in accordance with Petitioner's Exhibit I, be approved, and as such, the Petition for

July 15, 1988

James H. Thompson Zoring Enforcement Supervisor Ann M. Nastarowicz (LITTI) Deputy Zoning Commissioner

Roger S. Burnett, et ux Case No. 88-530-SPH 2526 Yorkway

Attached please find a copy of the decision rendered in the abovecaptioned matter. Please note in Restriction No. 1 that your staff will be involved in following up on this case.

Thank you for your attention in this matter.

AMN:bjs

Maryland 21222

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BEGINNING for the same at a point on the southwesterly line of Yorkway as now laid out distant 221 and 42/100ths feet northwesterly measured along said southwesterly line of Yorkway from the northwesterly line of Leeway as now laid out 60 feet wide, all as shown on "Plat No. 4" of Dundalk" and running thence south 37 degrees 33 minutes 27 seconds west 121 and 42/100ths feet to intersect the northeasterly line of a 14 foot alley there situate and as shown on said plat, thence binding on the northeasterly line of said alley north 51 degrees 6 minutes 49 seconds west 58 and 56/100ths feet, thence north 35 degrees 53 minutes 53 seconds east 118 and 99/100ths feet part of which distance is intended to be along the center line of a party wall there situate to intersect the said southwesterly of Yorkway, thence southeasterly binding on said southwesterly line of Yorkway on a curve to the right with a radius of 4075 feet for a distance of 62 feet to the place of beginning. The improvements thereon being known as No. 2526 Yorkway.

DEED DESCRIPTION FOR PROPERTY SITUATE: 2526 Yorkway, Baltimore County,

Special Hearing is hereby GRANTED, subject, however, to the following

1) Within sixty (60) days of the date of this Order, the Petitioner shall make arrangements with the Zoning Enforcement Division of this Office for an inspection of the formerly known sixth apartment to insure that all kitchen facilities have been removed.

( MNorda onice ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494-3353 J. Robert Haines

July 15, 1988

John O. Hennegan, Esquire 809 Eastern Boulevard Baltimore, Maryland 21221

RE: PETITION FOR SPECIAL HEARING SW/S Yorkway, 221.42' SE of Leeway (2526 Yorkway) 12th Election District; 7th Councilmanic District Roger S. Burnett, et ux - Petitioners Case No. 88-530-SPH

Dear Mr. Hennegan:

Enclosed please find the decision rendered on the above-referenced case. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 494-3391.

Very truly yours,

a Milahaming ANN M. NASTAROWICZ Deputy Zoning Commissioner for Baltimore County

Dennis F. Rasmussen

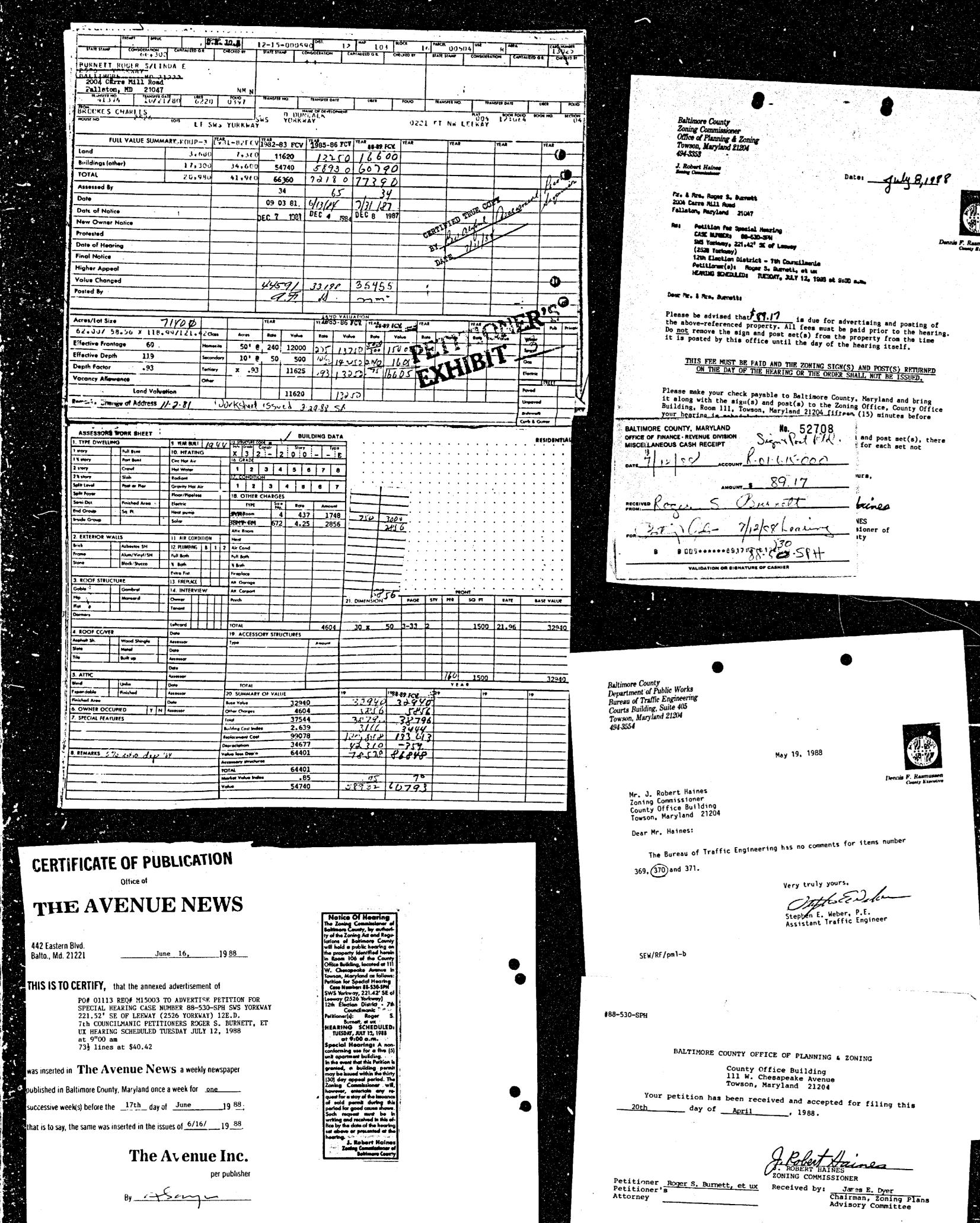
Enclosure cc: Mr. John O'Bara

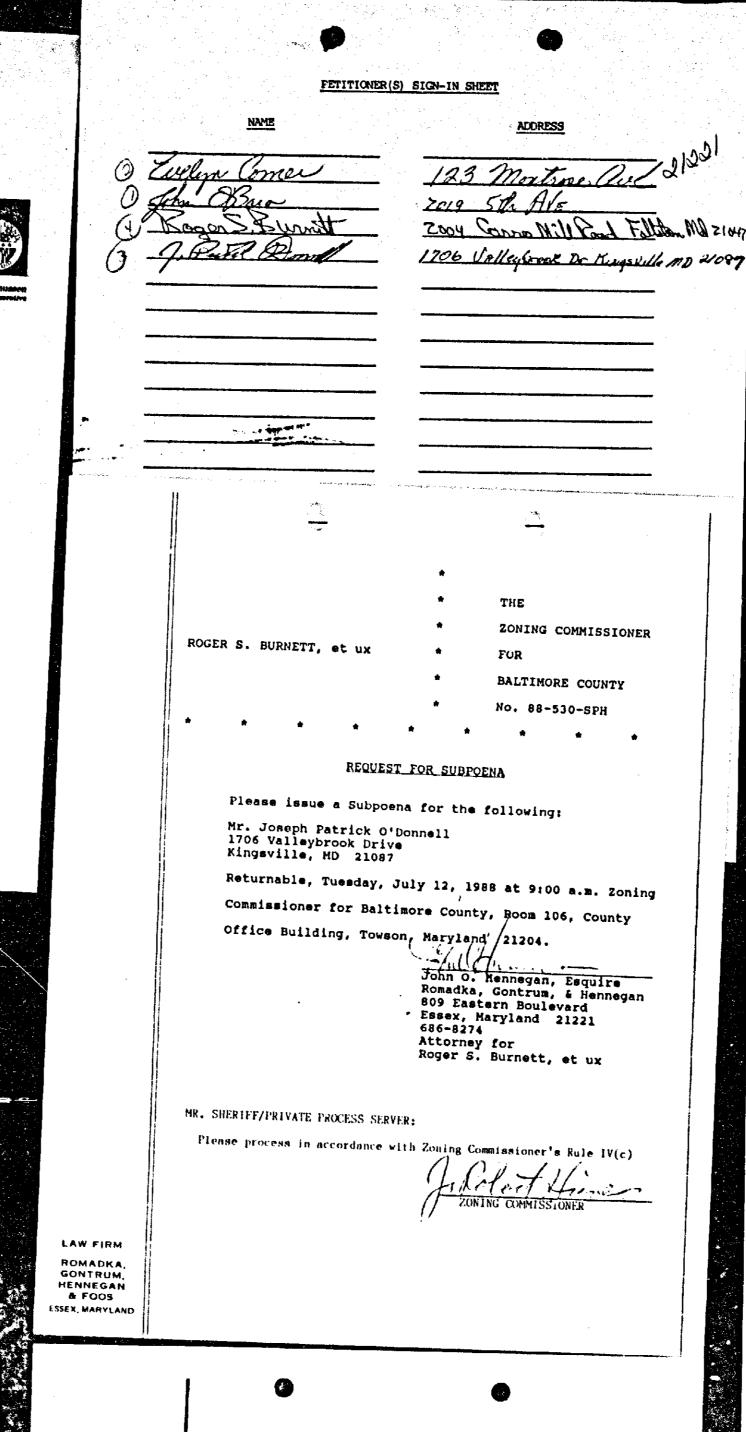
7019 5th Avenue, Annapolis, Md. 21403

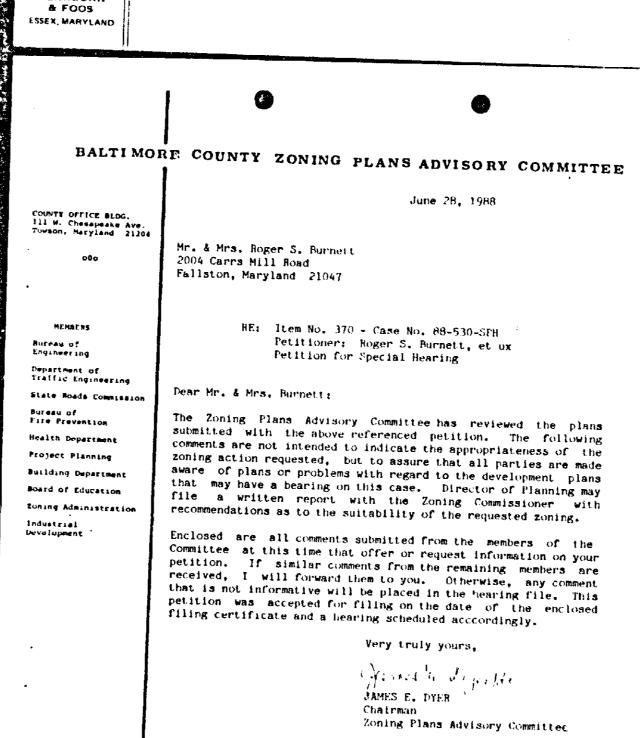
Ms. Evelyn Comer 123 Montrose Avenue, Baltimore, Md. 21228 Mr. J. Richard O'Donnell

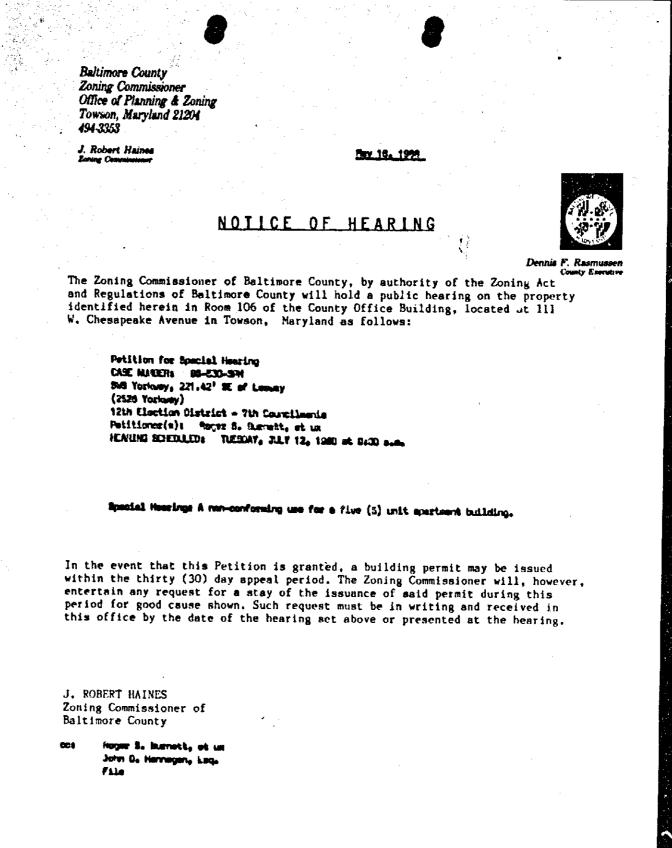
1706 Valleybrook Drive, Kingsville, Md. 21087

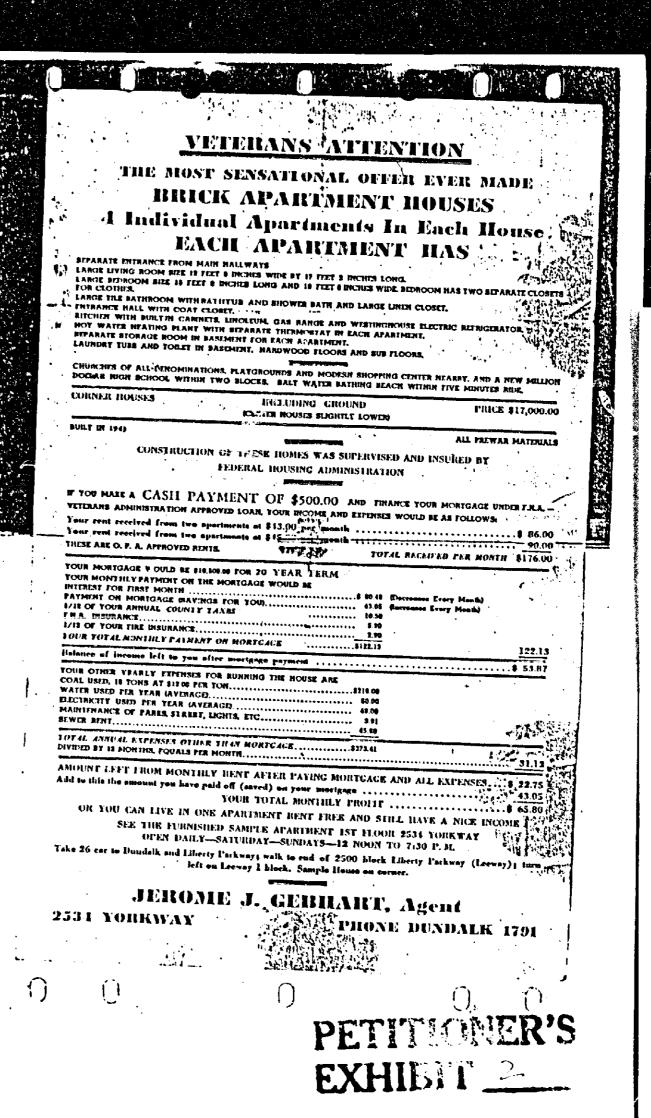
People's Counsel File

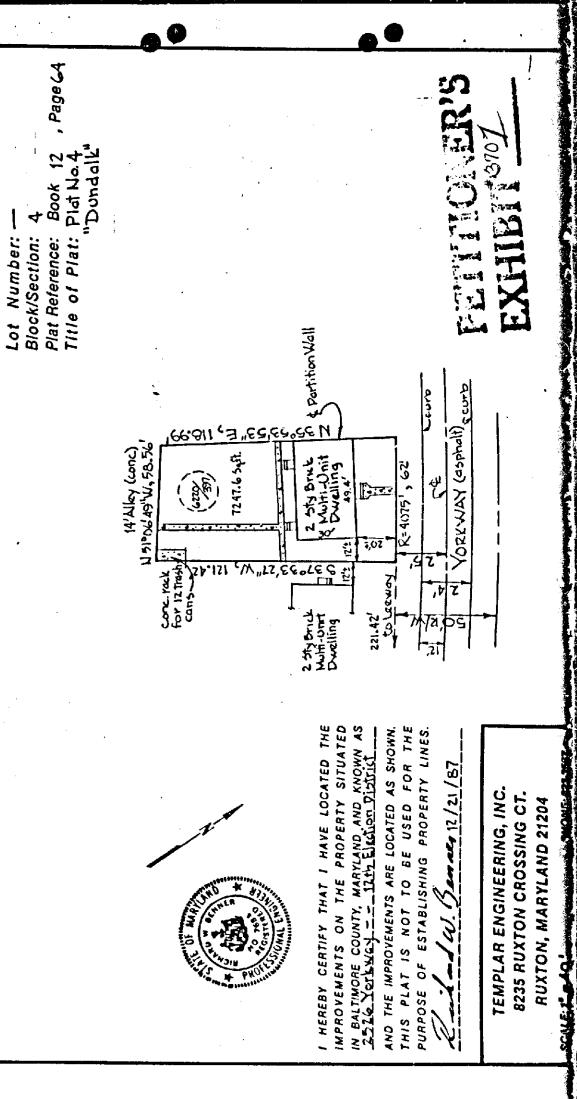












**Baltimore County** Fire Department Towson, Maryland 21204-2586 494-4500 Paul H. Reincke April 26, 1988 J. Robert Haines Zoning Commissioner Office of Planning and Zoning Baltimore County Office Building Towson, MD 21204 Re: Property Owner: Roger S. Burnett, et ux

Dennis F. Rasmussen Zoning Agenda: Meeting of 4/19/88

Pursuant to your request, the referenced property has been surveyed by this

Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property. ( ) 1. Fire hydrants for the referenced property are required and shall be

located at intervals or \_\_\_\_ feet along an approved road in accor-dance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

( ) 3. The vehicle dead end condition shown at \_\_\_\_\_

Location: SW/S Yorkway, 221.42 SE of Lecway

EXCEEDS the maximum allowed by the Fire Department. ( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(x) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Pro-

tection Association Standard No. 101 "Life Safety Code," 1976 Edition prior to occupancy.

( ) 6. Site plans are approved, as drawn.

( ) 7. The Fire Prevention Bureau has no comments at this time.

Enclosures

REVIEWER: CIT (10 11 Telly 431-38 Approved: 4 Approved: 4 Special Inspection Division